

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JENNY WONG, et al.,

Plaintiffs,

Case No. 14-cv-13798
Hon. Matthew F. Leitman

v.

DETROIT ENTERTAINMENT,
LLC *et al.*

Defendants.

**ORDER DENYING PLAINTIFFS' MOTION IN LIMINE REGARDING
VIDEOTAPES (ECF #47) WITHOUT PREJUDICE**

This action arises out of an investigation into, and arrest of, Plaintiff Jenny Wong (“Ms. Wong”). Ms. Wong has asserted claims for, among other things, arrest without probable cause and malicious prosecution. (*See* Sec. Am. Compl., ECF #55.) Ms. Wong (and Co-Plaintiff Michael Chung) have now filed a motion in limine to preclude certain Defendants from testifying as to their perceptions of what is depicted on a videotape (the “Motion”). (*See* ECF #47.) Plaintiffs argue that the Court should not permit the Defendants to present this testimony to the jury on the issue of whether there was probable cause to arrest Ms. Wong. (*See id.*)

The Court concludes that the Motion is premature. As the Court previously ordered (*see* ECF #59), all parties submitted supplemental briefs on the issue of whether the Court or the jury decides the question of whether there was probable cause for Ms. Wong's arrest. (*See* ECF ## 60, 64, and 65.) All parties agree that if the facts concerning probable cause are undisputed, the question of probable cause is to be decided by the Court. (*See id.*) Defendants have further informed the Court that they intend to file a motion for summary judgment in which they will argue that the Court should decide the probable cause question as a matter of law. (*See* ECF #64 at 5-8, Pg. ID 580-83; ECF #65 at 3-4, Pg. ID 587-88.) Because it is not yet clear that the question of probable cause – or any factual disputes related to that question – will be presented to the jury, it is too early to determine what testimony, if any, the Defendants may present concerning their perceptions of the video tape.

Plaintiffs may ask the Court to re-visit this issue, if appropriate, following the Court's ruling on the to-be-filed motions for summary judgment. At that time, Plaintiffs may also renew their request for the additional relief sought in the Motion.

Accordingly, for the reasons stated above, **IT IS HEREBY ORDERED** that the Motion (ECF #47) is **DENIED WITHOUT PREJUDICE**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: April 5, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 5, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113